

Notice of Allowability

Application No.

10/540,616

Examiner

Yong Chu

Applicant(s)

LINDERS ET AL.

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1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 08/28/2007.
2. ☒ The allowed claim(s) is/are 13, 23-30, and 32-35 (renumbered as 1-13).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 08/28/2007
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 08/28/2007 has been entered.

Claims 33 and 34 are new by the Amendment. Therefore, claims 13, and 23-30, and 32-34 are pending in the instant application and will be examined on the merits.

Response to Amendment

The amendment by Applicants' representative David Knasiak dated on 08/28/2007 has been entered.

Information Disclosure Statement

Applicant's Information Disclosure Statement, filed on 08/28/2007, has been considered. Please refer to Applicant's copy of the PTO-1449 submitted herewith.

Response to Remarks/Arguments

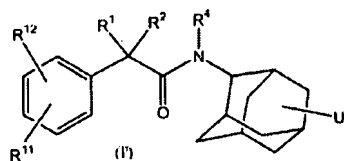
New claims 33 and 34

The dependent claims 33 and 34 are allowable.

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Reasons for Allowance

The present invention is directed to a compound of formula (I')



disclosed in claim 13,

the N-oxide forms, the pharmaceutically acceptable addition salts and the stereochemically isomeric forms thereof wherein

R^1 and R^2 each independently represents hydrogen, C_{1-4} alkyl, NR^9R^{10} , C_{1-4} alkyloxy or Het^3-O-C_{1-4} alkyl; or

R^1 and R^2 taken together with the carbon atom with which they are attached form a C_{3-6} cycloalkyl;

R^4 represents hydrogen, C_{1-4} alkyl, or C_{2-4} alkenyl;

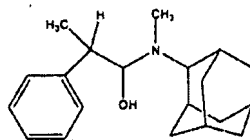
U represents C_{1-4} alkyloxy, phenyl, halo, oxo, carbonyl or hydroxyl;

R^5 and R^6 are each independently selected from hydrogen, C_{1-4} alkyl, C_{1-4} alkyloxy C_{1-4} alkyl, C_{1-4} alkyloxycarbonyl, C_{1-4} alkylcarbonyl, C_{1-4} alkylcarbonyl substituted with one or where possible two or three substituents each independently selected from halo, C_{1-4} alkyl, and C_{1-4} alkyloxy or R^5 and R^6 each independently represent C_{1-4} alkyl substituted with phenyl;

R^7 and R^8 are each independently selected from hydrogen or C_{1-4} alkyl;

R^9 and R^{10} are each independently selected from hydrogen, C_{1-4} alkyl or C_{1-4} alkyloxycarbonyl;

, a pharmaceutical composition comprising the said compounds. The closest prior art of record is by Lavrova *et al.*



Lavrova *et al.* disclose a compound

This compound has

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distinct structure from the instantly claim compounds, wherein the **U** is C₁₋₄alkyloxy, phenyl, halo, oxo or hydroxyl for instant application and **U** is H for the closest reference.

Conclusion

Claims 13, 23-30, and 32-34 are allowed.

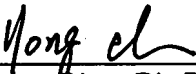
Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Chu whose telephone number is 571-272-5759. The examiner can normally be reached on 7:00 am - 3:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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